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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,148	11/17/2003	Michael D. Seidman	MDS-10202/03	4310

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GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C  
PO BOX 7021  
TROY, MI 48007-7021

EXAMINER

ROYDS, LESLIE A

ART UNIT PAPER NUMBER

1614

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/715,148	SEIDMAN, MICHAEL D.	
	Examiner	Art Unit	
	Leslie A. Royds	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11 and 20 is/are rejected.
- 7) ☒ Claim(s) 11 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

#### **Claims 11 and 20 are presented for examination.**

Applicant's Amendment filed May 8, 2006 has been received and entered into the application. Accordingly, claims 1-2, 4-9, 12, 14-15, 17-19 and 21 have been cancelled.

In view of the cancellation of claims 1-2, 4-9, 12, 14-15, 17-19 and 21, the rejection of under 35 U.S.C. 103(a) as set forth at pages 3-6 of the previous Office Action dated February 8, 2006, is hereby rendered moot as applied to such claims.

#### ***Objection to the Claims***

Insofar as Applicant has again failed to address the inconsistent reference to “+/- alpha-lipoic acid” in present claims 11 and 20 as set forth in the objection to the claims at pages 2-3 of the previous Office Action dated February 8, 2006, the objection to claims 11 and 20 remains proper and is repeated below.

Claims 11 and 20 remain objected to for failing to consistently refer to “+/- lipoic acid” as such. See particularly line 7 of claim 11 and line 9 of claim 20. Applicant may wish to consider amending the claims in the following manner in order to obviate the objection. Claim 11 is provided below as an example. Should Applicant adopt such a suggestion, claim 20 should be amended in a manner consistent with the suggestion below.

Applicant is reminded that amending the claims in the following manner does not necessarily render the claims free of the cited prior art.

---11. (Currently Amended) A nutritional supplement comprising at least two components administered in effective daily dosages selected from the group consisting of:

50-1000 mg +/- alpha-lipoic acid,  
100-5000 mg acetyl-L-carnitine,  
45-1000 mg resveratrol;  
200-2000 mg lecithin; and  
100-2500 mg N-acetyl cysteine with the proviso that the +/- alpha- lipoic acid and the acetyl-L-carnitine are not administered together.---

***Claim Rejection - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Chopra (U.S. Patent No. 6,300,377; 2001) in view of Stedman's Medical Dictionary (972; page 1243), Garrett and Grisham's *Biochemistry* (1999; pages 244-247), The Merck Index (1992; Monograph 9255) and Drug Facts and Comparisons (1996; pages 1064-1070), each already of record, for the reasons of record as set forth at pages 3-6 of the previous Office Action dated February 8, 2006, pages 3-5 of the previous Office Action dated July 18, 2005 and at pages 4-11 of the previous Office Action dated March 29, 2005, of which said reasons are herein incorporated by reference.

Response to Applicant's Remarks

Applicant states, "The indication that claims 11 and 20 would be allowable if amended to the form suggested by the Examiner is appreciated by this amendment and these claims have been so amended."

First, it is noted that the previous Office Action did not indicate claims 11 and 20 allowable if rewritten to overcome the objection at pages 2-3. In fact, the previous Office Action set forth such claims as rejected under 35 U.S.C. 103(a). Applicant's attention is directed to the reasons set forth at pages 3-6 of the previous Office Action dated February 8, 2006.

It is additionally noted that Applicant has again failed to amend the claims in the manner suggested by the Examiner to overcome the present objection. The objection and the suggestion are again repeated above for Applicant's reference.

In view of the foregoing, the rejection of claims 11 and 20 remains proper under 35 U.S.C. 103(a).

***Conclusion***

Rejection of claims 11 and 20 remains proper and is **maintained**.

No claims of the present application are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

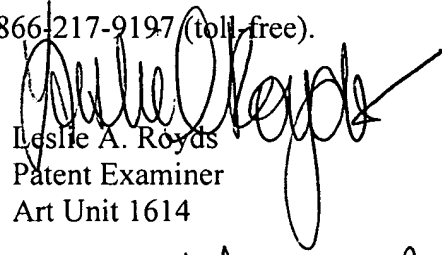
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**MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie A. Royds whose telephone number is (571)-272-6096. The examiner can normally be reached on Monday-Friday (8:30 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on (571)-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Leslie A. Royds  
Patent Examiner  
Art Unit 1614

May 16, 2006

  
**ARDIN H. MARSCHEL**  
**SUPERVISORY PATENT EXAMINER**